

Chapter 208-690 WAC  
REGULATION OF MONEY SERVICES PROVIDERS

PART A  
DEFINITIONS

## NEW SECTION

**WAC 208-690-010 Definitions.** The definitions in RCW 19.230.010 and this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Act" means the Uniform Money Services Act, chapter 19.230 RCW.

(2) "Audited financial statement" means a statement prepared by an independent accountant according to generally accepted accounting principles.

(3) "Principal" means any person who controls, directly or indirectly through one or more intermediaries, alone or in concert with others, a ten percent or greater interest in a partnership, company, corporation, or association, or the owner of a sole proprietorship.

(4) "RCW" means the *Revised Code of Washington*.

(5) "Unsafe or unsound practice" means a practice or conduct by a person licensed or required to be licensed by the act to provide money services, or an authorized delegate of such a person, which creates the likelihood of material loss, insolvency, or dissipation of the licensee's assets, or otherwise materially prejudices the financial condition of the licensee or the interests of its customers.

## **PART B LICENSING**

## NEW SECTION

**WAC 208-690-020 Voluntary license application.** (1) Any person otherwise exempt from licensing under the provisions of the act may voluntarily submit an application to the director for a money transmitter or currency exchange license. The director shall review such application and may grant or deny licenses to such applicants upon the same grounds and subject to payment of the same fees as are applicable to persons required to be licensed.

(2) Upon receipt of a license under this section, the licensee is required to maintain a valid license and is subject to all the provisions of the act and these rules until the license is surrendered or revoked.

NEW SECTION

**WAC 208-690-030 License application.** Each person required to have a money transmission or currency exchange license must apply to the director by filing:

(1) A completed application in a form and in a medium prescribed by the director. The application must contain:

(a) The legal name, business address, and residential address, if applicable, of the applicant and any fictitious or trade name used by the applicant in conducting its business;

(b) The legal name, residential and business address, date of birth, Social Security number, employment history for the five-year period preceding the submission of the application of the applicant's proposed responsible individual, and documentation that the proposed responsible individual is a citizen of the United States or has obtained legal immigration status to work in the United States. In addition, the applicant shall provide the fingerprints of the proposed responsible individual and a personal credit report from a recognized independent credit reporting agency on the proposed responsible individual;

(c) For the ten-year period preceding submission of the application, a list of any criminal convictions of the proposed responsible individual of the applicant, any material litigation in which the applicant has been involved, and any litigation involving the proposed responsible individual relating to the provision of money services;

(d) A description of any money services previously provided by the applicant and the money services the applicant seeks to provide in this state;

(e) A list of the applicant's authorized delegates including the business name and any additional names by which the business may be known, the business address and name of the primary contact person for each authorized delegate, and the locations in this state where the applicant and its authorized delegates propose to engage in the provision of money services;

(f) A list of other states in which the applicant is licensed to engage in money transmission, or provide other money services, and any license revocations, suspensions, restrictions, or other disciplinary action taken against the applicant in another state;

(g) A list of any license revocations, suspensions, restrictions, or other disciplinary action taken against any money services business involving the proposed responsible

individual;

(h) Information concerning any bankruptcy or receivership proceedings involving or affecting the applicant or the proposed responsible individual;

(i) A sample form of the contract for authorized delegates, if applicable;

(j) A description of the source of money and credit to be used by the applicant to provide money services; and

(k) A full description of the screening process used by the applicant in selecting authorized delegates, including a sample of any forms used, and the method used to screen for criminal history.

(2) If the applicant is a corporation, limited liability company, partnership, or other entity, the applicant shall also provide:

(a) The date of the applicant's incorporation or formation and the state or country of incorporation or formation;

(b) If applicable, a certificate of good standing from the state or country in which the applicant is incorporated or formed;

(c) A brief description of the structure or organization of the applicant, including any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded;

(d) The legal name, any fictitious or trade name, all business and residential addresses, date of birth, Social Security number, and employment history in the ten-year period preceding the submission of the application for each executive officer, board director, or person that has control of the applicant;

(e) If the applicant or its corporate parent is not a publicly traded entity, the fingerprints of each executive officer, board director, or person that has control of the applicant;

(f) A list of any criminal convictions, material litigation, and any litigation related to the provision of money services, in the ten-year period preceding the submission of the application in which any executive officer, board director, or person in control of the applicant has been involved;

(g) A copy of the applicant's audited financial statements for the most recent fiscal year or, if the applicant is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent corporation or the applicant's most recent audited consolidated annual financial statement, and in each case, if available, for the two-year period preceding the submission of the application;

(h) A copy of the applicant's unconsolidated financial statements for the current fiscal year, whether audited or not, and, if available, for the two-year period preceding the

submission of the application;

(i) If the applicant is publicly traded, a copy of the most recent report filed with the United States Securities and Exchange Commission under section 13 of the federal Securities Exchange Act of 1934 (15 U.S.C. Sec. 78m);

(j) If the applicant is a wholly owned subsidiary of:

(i) A corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed under section 13 of the federal Securities Exchange Act of 1934 (15 U.S.C. Sec. 78m); or

(ii) A corporation publicly traded outside the United States, a copy of similar documentation filed with the regulator of the parent corporation's domicile outside the United States;

(k) If the applicant has a registered agent in this state, the name and address of the applicant's registered agent in this state.

(3) If the application is for money transmission, a surety bond as required by WAC 208-690-040 or an assignment of a certificate of deposit, as required by WAC 208-690-045.

(4) An application fee as prescribed by WAC 208-690-130(1). The application fee is not refundable.

(5) An initial license fee as prescribed by WAC 208-690-130(2). The initial license fee will be refunded if the license application is denied.

(6) If the application is for money transmission, a certification that the applicant's investment portfolio includes only permissible investments under RCW 19.230.200 and 19.230.210.

The director may waive one or more requirements of subsection (1) or (2) of this section or permit an applicant to submit other information in lieu of the required information.

## NEW SECTION

**WAC 208-690-031 Addition of authorized delegates.** To add authorized delegate(s) or company owned locations after a money transmitter or currency exchanger license has been issued, the licensee must notify the director prior to providing money services at the new location(s) or through the new authorized delegate(s) by filing:

(1) A completed notification form prescribed by the director;

(2) For each proposed authorized delegate, the business name including any additional names by which the business may be

known, the business address and name of the primary contact person, and the business address of each location where the authorized delegate will provide money services; and

(3) The fees required by WAC 208-690-130.

#### NEW SECTION

**WAC 208-690-035 Authorized delegates, limitation, inclusion.** (1) Only a licensee may designate an authorized delegate.

(2) An authorized delegate, or any other person exempt from the licensing requirements of chapter 19.230 RCW, cannot have an authorized delegate.

(3) Any person who is designated by a licensee to provide money services on behalf of the licensee is an authorized delegate, regardless of whether that person would be exempt from the application of chapter 19.230 RCW if they provided money services on their own behalf.

#### NEW SECTION

**WAC 208-690-040 Surety bond.** (1) Each money transmitter licensee shall continuously maintain a surety bond as required by RCW 19.230.050, issued by a company authorized to do surety business in this state, as a surety. The surety may not be a wholly owned subsidiary or affiliate of the applicant or licensee.

(2) The penal sum of the bond shall be calculated annually according to the following schedule:

(a) Ten thousand dollars if the applicant or licensee had money transmission receipts of less than one million dollars for the previous twelve months, including applicants who have not previously engaged in providing money transmission services.

(b) Twenty thousand dollars if the applicant or licensee had money transmission receipts of at least one million but less than two million dollars for the previous twelve months.

(c) Thirty thousand dollars if the applicant or licensee had money transmission receipts of at least two million but less than three million dollars for the previous twelve months.

(d) Forty thousand dollars if the applicant or licensee had money transmission receipts of at least three million but less than four million dollars for the previous twelve months.

(e) Fifty thousand dollars if the applicant or licensee had money transmission receipts of four million dollars or more for the previous twelve months.

In addition to these amounts, the penal sum of the bond is increased by ten thousand dollars for each additional location where that applicant provides money services, including each location of authorized delegates, and each location owned and operated by the applicant, up to a maximum total amount of five hundred thousand dollars.

#### NEW SECTION

**WAC 208-690-045 Alternative to the surety bond, certificate of deposit.** In lieu of the surety bond required under WAC 208-690-040, an applicant or licensee may substitute an assignment of a certificate of deposit in favor of the director in a form provided by the director. The certificate of deposit must be issued by a financial institution in the state of Washington whose shares or deposits are insured by an agency of the government of the United States. The depositor is entitled to receive all interest and dividends on the certificate of deposit. The assignment of a certificate of deposit will be held for at least five years after the date when a replacement security instrument is filed with the director, or at least five years after the date the money transmitter licensee ceases to provide money services in this state.

#### NEW SECTION

**WAC 208-690-050 Increase of security.** The director may increase the amount of security required, to a maximum of one million dollars, if the financial condition of a money transmitter licensee so requires. The director may consider, without limitation, the following criteria:

- (1) Significant reduction of net worth.
- (2) Financial losses.
- (3) Potential losses resulting from violations of chapter 19.230 RCW, or these rules;
- (4) Licensee filing for bankruptcy.
- (5) The initiation of any proceedings against the licensee in any state or foreign country.
- (6) The filing of a state or federal criminal charge

against the licensee, person in control, responsible individual, executive officer, board director, employee, authorized delegate or principal, based on conduct related to providing money services or money laundering.

(7) A licensee, executive officer, board director, person in control, responsible individual, principal or authorized delegate being convicted of a crime.

(8) Any unsafe or unsound practice.

(9) A judicial or administrative finding against a money transmitter licensee under chapter 19.86 RCW, or an examination report finding that the money transmitter licensee engaged in an unfair or deceptive act or practice in the conduct of its business.

(10) Other events and circumstances that, in the judgment of the director, impair the ability of the licensee to meet its obligations to its money services customers.

#### NEW SECTION

**WAC 208-690-060 Net worth.** (1) A money transmitter applicant or licensee must demonstrate and maintain a net worth of at least the amounts set forth in the following schedule:

(a) Ten thousand dollars if the applicant has not previously engaged in the provision of money services, or the applicant or licensee had money transmission receipts of less than one million dollars for the previous twelve months;

(b) Twenty thousand dollars if the applicant or licensee had money transmission receipts of at least one million dollars but less than two million dollars for the previous twelve months;

(c) Thirty thousand dollars if the applicant or licensee had money transmission receipts of at least two million dollars but less than three million dollars for the previous twelve months;

(d) Forty thousand dollars if the applicant or licensee had money transmission receipts of at least three million dollars but less than four million dollars for the previous twelve months; or

(e) Fifty thousand dollars if the applicant or licensee had money transmission receipts of four million dollars or more for the previous twelve months.

(2) Determinations of net worth must be made according to generally accepted accounting principles.

NEW SECTION

**WAC 208-690-070 License denial.** (1) Director may deny a money services license if the director determines that:

- (a) The application is incomplete;
- (b) The surety bond or net worth requirements of WAC 208-690-040 through 208-690-060 have not been met;
- (c) The general fitness and character requirements of RCW 19.230.070 or 19.230.100 have not been met as demonstrated by findings including, but not limited to, the following:
  - (i) The applicant, an executive officer, proposed responsible person, board director, person in control or authorized delegate has been convicted of any felony within the past ten years;
  - (ii) The applicant, an executive officer, proposed responsible person, board director, person in control or authorized delegate has been convicted of a crime involving a financial transaction within the past ten years;
  - (iii) The applicant, an executive officer, proposed responsible person, board director or person in control has criminal, civil, or administrative charges issued against him/them in any jurisdiction for violations relating to a financial transaction(s) within the past ten years;
  - (iv) The applicant, an executive officer, proposed responsible person, board director, or person in control has falsified any information supplied in connection with the application;
  - (v) The applicant, or any proposed authorized delegate thereof, has had an adverse action taken against any business license related to providing financial services by a jurisdiction within the United States within the past five years;
  - (vi) The applicant has allowed a business under its control to deteriorate to a condition of insolvency determined by the fact that its liabilities exceed its assets or it cannot meet its liabilities as they mature;
- (d) The applicant, or any authorized delegate thereof, fails to respond to a request for information from the director;
- (e) The description of the screening process used by the applicant in selecting authorized delegates supplied by the applicant describes a process that is ineffective in determining the fitness of proposed authorized delegates;
- (f) The applicant has failed to register with the United States Department of the Treasury as required by 31 U.S.C.

Section 5330;

(g) The applicant, an executive officer, proposed responsible individual, board director, or person in control is listed on the specially designated nationals and blocked persons list prepared by the United States Department of the Treasury as a potential threat to commit terrorist acts or to finance terrorist acts.

(2) In lieu of denying an application as authorized by any of the findings in subsection (1) of this section, the director may return the application or extend the review period if the director determines that the condition or circumstances that would likely lead to denial may be temporary and resolved satisfactorily within a reasonable period of time. The director may resume processing the application if the director determines that a favorable resolution of the disqualifying condition has occurred.

(3) The director may revoke or suspend a license and issue an order to cease and desist operations as a money services licensee if:

(a) Another jurisdiction initiates an adverse action against the money services license of the licensee; or

(b) Upon finding the existence of any condition or fact that would have led to denial of a license if known by the director during the processing of the application.

## **PART C**

### **RECORDKEEPING AND REPORTING**

#### NEW SECTION

**WAC 208-690-075 Transaction records.** In addition to the records required to be retained under RCW 19.230.170, a money transmitter licensee shall maintain a record of money transmittals in accordance with Title 31, Code of Federal Regulations, Part 103.33(f), as now appearing or hereafter amended.

NEW SECTION

**WAC 208-690-080 Audited annual financial statement.** A money transmitter licensee is required to have an audited financial statement prepared annually in accordance with generally accepted accounting principles.

NEW SECTION

**WAC 208-690-090 Annual report and annual assessment.** Every licensee must submit a completed annual report and annual license assessment fee prescribed by WAC 208-690-140. The completed report and the fee must be received in the department office no later than 5:00 p.m. July 1, or 5:00 p.m. the next business day if July 1 is not a business day. A form for the preparation of the annual report and license assessment will be made available by the department by electronic transmission or mailed upon request. The report shall include the following:

(1) If the licensee is a money transmitter, a copy of the licensee's most recent audited annual financial statement or, if the licensee is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent company.

(2) A list of current authorized delegates in a form and in a medium prescribed by the director.

(3) If the licensee is a money transmitter, a certification that the licensee's investment portfolio includes only permissible investments under RCW 19.230.200 and 19.230.210.

(4) If the licensee is a money transmitter, proof that the licensee has an adequate surety bond or assignment of a certificate of deposit and net worth as required by WAC 208-690-040 through 208-690-060.

(5) A description of each material change, as defined by WAC 208-690-110, which has not been previously reported to the director.

#### NEW SECTION

**WAC 208-690-100 Late penalty.** (1) If a licensee fails to submit the required annual report or license assessment fee by July 1, the director shall send the licensee a notice of suspension and assess a late fee equal to twenty-five percent of the license assessment fee. If a licensee whose license has been suspended under this section submits a completed annual report, the annual assessment and the late fee to the department office no later than 5:00 p.m., July 31, the license suspension shall be removed. If the delay extends past July 31, the director shall send a notice to the licensee that its license has expired effective August 1.

(2) The director may reinstate an expired license under this section if, by August 20, the licensee:

(a) Files the complete annual report and pays both the annual license assessment and the late fee; and

(b) The licensee or its delegates did not engage in providing money services during the period its license was expired.

(3) If any of the deadlines in this section occur on a day that is not a business day, the deadline shall be the next business day.

#### NEW SECTION

**WAC 208-690-110 Report of material change.** Material changes described in this section must be reported to the director within thirty business days of the occurrence of the change. "Material change" means any change that is not trivial, and that, if not reported, would cause an investigation or examination to be misled or delayed. Such changes include, but are not limited to:

(1) A change of the physical and/or mailing address;

(2) A change of the responsible individual;

(3) A change of the licensee's name or DBA (doing business as);

(4) A change in the location where the records of the licensee that are required to be retained under RCW 19.230.170 are kept;

(5) The obtaining, revocation or surrender of a money

services license in any other jurisdiction;

(6) The conviction of the licensee, an executive officer, responsible individual, board director, principal, or person in control of a misdemeanor or gross misdemeanor involving a financial transaction; and

(7) Other similar activities or events.

The fee prescribed by WAC 208-690-150 must accompany each report.

#### NEW SECTION

**WAC 208-690-112 Other reports.** A licensee shall file a report with the director within one business day after the licensee has reason to know of the occurrence of any of the following events:

(1) The filing of a petition by or against the licensee, or any authorized delegate of the licensee, under the United States Bankruptcy Code (11 U.S.C. 101-110) for bankruptcy or reorganization;

(2) The filing of a petition by or against the licensee, or any authorized delegate of the licensee, for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of creditors;

(3) The commencement of a proceeding to revoke, suspend, restrict, or condition its license, or otherwise discipline or sanction the licensee, in a state or country in which the licensee engages in business or is licensed;

(4) The cancellation or other impairment of the licensee's bond or other security;

(5) A charge or conviction of the licensee or of an executive officer, responsible individual, board director of the licensee, principal, or person in control of the licensee, for a felony; or

(6) A charge or conviction of an authorized delegate for a felony.

NEW SECTION

**WAC 208-690-115 Request for approval of change of control.**

A request for approval of change of control as required by RCW 19.230.160 shall be made within fifteen days after learning of the proposed change of control and at least thirty days prior to the proposed change of control. The request for approval shall include:

(1) A comprehensive description of the proposed change that sets forth:

(a) The identity of all persons acquiring control under the proposed change;

(b) The ownership interest and managerial authority of all persons in control under the proposed change.

(2) For each new person in control under the proposed change:

(a) Biographical information, including employment history for the immediate previous five years;

(b) A personal credit report issued by a recognized independent credit reporting agency;

(c) A signed authorization for a background investigation on a form prescribed by the director.

(3) A transaction fee as prescribed by WAC 208-690-150.

NEW SECTION

**WAC 208-690-120 Quarterly reports--Deletion of authorized delegates, locations--Address or name change.** (1) A licensee shall file with the director within forty-five days after the end of each fiscal quarter:

(a) Any deletion of licensee-owned locations where money services are provided, including mobile locations;

(b) Any change in the name or trade name (DBA or doing business as) or business address of an existing authorized delegate;

(c) Any deletions from its roster of authorized delegates;  
and

(d) The fee required by WAC 208-690-150.

(2) If there is no change in the roster of authorized delegates or locations where money services are provided, or no changes in the name or trade name (DBA or doing business as) or

business address of any authorized delegate during a fiscal quarter, no report is required.

## **PART D FEES**

### NEW SECTION

**WAC 208-690-130 License fees.** (1) A nonrefundable license application fee of five hundred dollars shall be paid by each license applicant, plus fifty dollars for each additional location where the licensee or an authorized delegate will provide money services, up to a maximum of fifteen thousand dollars. A nonrefundable application fee of fifty dollars shall be paid by a licensee for each authorized delegate or company owned location the licensee seeks to add to its roster after the company license has been issued.

(2) An applicant shall pay an initial license fee of five hundred dollars, plus fifty dollars for each additional location where the applicant or an authorized delegate will provide money services, up to a maximum of fifteen thousand dollars. This initial license fee is refundable if the application is denied. A licensee shall pay an initial license fee of fifty dollars for each authorized delegate the licensee seeks to add to its roster after the license has been issued. This fee is refundable if the application to add an authorized delegate is denied. The fee is not refundable if the application is withdrawn.

### NEW SECTION

**WAC 208-690-140 License assessment.** A licensee shall pay an annual license assessment of five hundred dollars plus fifty dollars for each additional location where the licensee or an authorized delegate provides money services, up to a maximum of fifteen thousand dollars.

NEW SECTION

**WAC 208-690-150 Transaction fee.** (1) A fee of thirty dollars shall be paid by a licensee for the administrative costs connected with processing each:

(a) Change of a licensee's physical or mailing address, name or trade name (DBA or doing business as);

(b) Request for approval of a change in control of a licensee;

(c) Change of the responsible individual;

(d) Change in the business/trade name or location of an existing authorized delegate, or company-owned location, or deletions from the roster or authorized delegates; or

(e) Material change.

(2) Transaction fees to cover administrative costs are separate, distinct from, and in addition to investigation and examination fees under WAC 208-690-170.

NEW SECTION

**WAC 208-690-160 Late fees.** A late fee of twenty five percent of the annual license assessment will be added to the assessment if the annual report and license assessment are not received in the office of the department by 5:00 p.m., July 1. If July 1 is not a business day, the deadline is 5:00 p.m. the next business day.

NEW SECTION

**WAC 208-690-170 Investigation and examination fee.** (1) The director will collect fees of seventy-five dollars per hour for investigation and examination, including, but not limited to, the following services:

(a) The review and attendant investigation of changes in control changes in the responsible individual, changes in the identity or location of authorized delegates, and other material changes.

(b) The review and attendant investigation of permissible investments of the licensee.

(c) Any examination of the licensee's books, records and files deemed necessary by the director.

(2) The licensee, applicant or person subject to licensing under this chapter who is the subject of an examination or investigation shall pay the actual expenses of required out-of-state travel including, but not limited to, travel, lodging and per diem expense.

(3) Investigation and examination fees are separate, distinct from, and in addition to transaction fees imposed by WAC 208-690-150.

## **PART E**

### **ENFORCEMENT**

NEW SECTION

**WAC 208-690-180 Authority to conduct examinations and investigations.** (1) For the purposes of discovering violations of chapter 19.230 RCW or these rules, discovering unsafe and unsound practices, or securing information lawfully required under chapter 19.230 RCW, the director may at any time, either personally or by designee, investigate or examine the business and, wherever located, the books, accounts, records, papers, documents, files, and other information used in the business of every licensee or its authorized delegates, and of every person who is engaged in the business of providing money services, whether the person acts or claims to act under or without the authority of chapter 19.230 RCW. For these purposes, the director or designated representative shall have free access to the offices and places of business, books, accounts, papers, documents, other information, records, files, safes, and vaults of all such persons. The director may require the attendance of and examine under oath all persons whose testimony may be required about the business or the subject matter of any investigation, examination, or hearing and may require such person to produce books, accounts, papers, documents, records, files and any other information the director or designated person declares is relevant to the inquiry. The director may require the production of original books, accounts, papers, documents, records, files, and other information; may require that such original books, accounts, papers, documents, records, files, and other information be copied; or make copies himself or herself or by designee of such original books, accounts, papers, documents, records, files, or other information. If the director determines that there is a danger that original records may be destroyed, altered, or removed to deny access, or hinder an examination or investigation, or that original documents are necessary for the preparation of a criminal referral, the director may take possession of originals of any items described in this section, regardless of the source of such items. Originals and copies taken by the director may be held, returned, or forwarded to other regulatory or law enforcement officials as determined necessary by the director. The director or designated person may issue a subpoena or subpoena duces tecum requiring attendance or compelling production of the books, accounts, papers, documents, records, files, or other information.

(2) The licensee, applicant, or person subject to licensing

under this chapter shall pay the cost of examinations and investigations as specified in RCW 19.230.320 and WAC 208-690-170.

(3) Information obtained during an examination or investigation under these rules may be disclosed only as provided in RCW 19.230.190.

(4) The director may retain attorneys, accountants, or other professionals and specialists as examiners, auditors or investigators, to conduct or assist in the conduct or examinations or investigations. The cost of these services shall be borne by the person who is the subject of the examination or investigation.